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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/602,203	06/24/2003	Roger H. Dev	NEXTCHCE-002XX	2207

28452 7590 01/10/2008	EXAMINER	
BOURQUE & ASSOCIATES	LASTRA, DANIEL	
INTELLECTUAL PROPERTY ATTORNEYS, P.A.		
835 HANOVER STREET	ART UNIT	PAPER NUMBER
SUITE 301		
MANCHESTER, NH 03104	3622	

MAIL DATE	DELIVERY MODE
01/10/2008	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

	Application No.	Applicant(s)
Office Action Summary	10/602,203	DEV ET AL.
	Examiner	**Art Unit**	
	DANIEL LASTRA	3622	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) ☒ Responsive to communication(s) filed on *17 August 2006*.
2a) ☐ This action is **FINAL**.   2b) ☒ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) ☒ Claim(s) *1-42* is/are pending in the application.
    4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) *1-42* is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) ☐ The specification is objected to by the Examiner.
10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
    a) ☐ All b) ☐ Some * c) ☐ None of:
      1. ☐ Certified copies of the priority documents have been received.
      2. ☐ Certified copies of the priority documents have been received in Application No. _____.
      3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
    Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

1.   Claims 1-42 have been examined. Application 10/602,203 (SYSTEM AND METHOD FOR SELECTIVELY SUGGESTING GOODS OR SERVICES) has a filing date 06/24/2003 Claims Priority from Provisional Application 60390953, filed 06/24/2002.

Claim Objections

2.   Claims 16-20 are objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form. Claims 16-20 and claims 6-10 are claiming the same limitations.

Claim Rejections - 35 USC § 102

3.   The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-42 are rejected under 35 U.S.C. 102(e) as being anticipated by Walker (US 6,634,550).

Claims 1, 31 and 32, Walker teaches:

A method of selectively suggesting goods or services, comprising the steps of:

receiving data from a customer, wherein said data specifies goods or services that are selected by said customer (see col 8, lines 40-67); and

determining a suggestion to make to said customer via use of said data, said suggestion being based upon information associated with said customer (see col 8, lines 10 – col 9, line 10).

Claims 2 and 33, <u>Walker</u> teaches:

wherein said information associated with said customer is probabilistic behavior, customer profiling, and/or situational sensitivity (see col 7, lines 15-30; col 8, lines 60-67).

Claims 3 and 34, <u>Walker</u> teaches:

wherein the step of determining a suggestion is made to said customer after said goods or services are chosen by said customer (see col 8, lines 50-67; figures 5-6).

Claims 4 and 35, <u>Walker</u> teaches:

wherein the step of determining a suggestion is made to said customer after said goods or services are customized by said customer (see figures 5-6).

Claims 5 and 36, <u>Walker</u> teaches:

wherein said step of determining a suggestion is made after said customer completes an order (see figure 10; col 8, lines 30-50).

Claims 6, 16 and 37, <u>Walker</u> teaches:

wherein said suggestion to said customer is a suggestion selected from the group consisting of suggesting an additional item; suggesting an upgrade to a chosen item, suggesting an alternative item to a chosen item, suggesting an offer for an item at a discount price, and suggesting an offer of a free item (see col 3, lines 16-20,37-40).

Claims 7, 17 and 38, <u>Walker</u> teaches:

wherein said suggestion to said customer is a suggestion selected from the group consisting of suggesting application of a discount to an entire order, and suggesting application of a promotional discount to a promotional item or to combine items into a combination pricing package (see col 8, lines 30-40).

Claims 8, 18 and 39, <u>Walker</u> teaches:

constructing an order database based on said data received from said customer (see figures 7 and 10); and

using said order database in said step of determining said suggestion (see figures 5 and 6; col 9, lines 35-60).

Claims 9 and 19, <u>Walker</u> teaches:

said customer customizing said goods or services (see col 9, lines 35-60);

receiving customized data from said customer, wherein said customized data specifies said customized goods or services and modifying said suggestion based on said customized data (See col 9, lines 35-60).

Claims 10 and 20, <u>Walker</u> teaches:

wherein said good or services that are selected by said customer are selected from an electronic menu located at a restaurant (see col 14, lines 40-48).

Claims 11 and 30, <u>Walker</u> teaches:

A method for selectively suggesting goods or services, comprising the steps of:

receiving data from a customer, wherein said data specifies goods or services that are selected by said customer (see col 8, lines 35-65; col 14, lines 40-48); and

determining a suggestion to make to said customer based upon stored attributes of said customer (see col 8, lines 20-40).

Claim 12, <u>Walker</u> teaches:

wherein said stored attributes are selected from the group consisting of age, sex, name and prior order history of said customer (see col 8,lines 57-67).

Claim 13, <u>Walker</u> teaches:

wherein said step of determining a suggestion to make to said customer is also based upon stored attributes of a business that provides said goods or services (see col 7, lines 37-40).

Claim 14, <u>Walker</u> teaches:

wherein said step of determining a suggestion is performed after said customer selects said goods or services (see figures 5-6).

Claim 15, <u>Walker</u> teaches:

wherein said step of determining a suggestion is performed at the end of an order (see col 8, lines 30-40).

Claims 21 and 29, <u>Walker</u> teaches:

A method for selectively suggesting goods or services, comprising the steps of:

receiving data from a customer, wherein said data specifies goods or services that are selected by said customer (see col 8, lines 30-67; col 14, lines 40-50);

applying context specific rules to said received data (see col 9, lines 35-60); and

determining a suggestion to make to said customer, wherein said determination is made based on results received after said step of applying context specific rules (see col 9, lines 35-60).

Claim 22, Walker teaches:

wherein said step of determining a suggestion is performed after said customer selects said goods or services (see col 9, lines 35-60).

Claim 23, Walker teaches:

wherein said step of determining a suggestion is performed at the end of an order placed by said customer (see col 8, lines 30-50).

Claim 24, Walker teaches:

wherein said suggestion to said customer is a suggestion selected from the group consisting of suggesting an additional item, suggesting an upgrade to a chosen item, suggesting an alternative item to a chosen item, suggesting an offer for an item at a discount price, and suggesting an offer of a free item (see col 3, lines 15-40).

Claim 25, Walker teaches:

wherein said suggestion to said customer is a suggestion selected from the group consisting of suggesting application of a discount to an entire order, and

suggesting application of a promotional discount to a promotional item or to combine items into a combination pricing package (see col 3, lines 15-40).

Claim 26, Walker teaches:

constructing an order database based on said data received from said customer and using said order database in said step of determining said suggestion (see figures 5-7 and 10).

Claim 27, Walker teaches:

said customer customizing said goods or services (See col 8, lines 30-50);

receiving customized data from said customer, wherein said customized data specifies said customized goods or services (see col 8, lines 30-50); and

modifying said suggestion based on said customized data (see col 8, lines 30-50).

Claim 28, Walker teaches:

wherein said good or services that are selected by said customer are selected from an electronic menu located at a restaurant (see col 14, lines 40-50).

Claim 40, Walker teaches:

a peripheral device capable of allowing said customer to enter said data (see col 14, lines 40-50).

Claim 41, Walker teaches:

wherein said peripheral device is a touch-screen (see col 13, lines 15-17).

Claim 42, Walker teaches:

a second peripheral device for providing a display of said goods or services to said customer (see col 5, lines 35-40; col 14, lines 40-50).

Conclusion

4.   Any inquiry concerning this communication or earlier communications from the examiner should be directed to DANIEL LASTRA whose telephone number is 571-272-6720 and fax 571-273-6720. The examiner can normally be reached on 9:30-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, ERIC W. STAMBER can be reached on 571-272-6724. The official Fax number is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Daniel Lastra
January 6, 2008